

TOWN OF EAST LONGMEADOW TREE BYLAW

Section 1: Preamble

The Town of East Longmeadow finds that mature trees have aesthetic appeal, contribute to the distinct character of the community, improve air quality, provide glare and heat protection, reduce noise, aid in the stabilization of soil, provide natural flood-and-climate control, create habitats for wildlife, enhance property values and provide natural privacy to neighbors.

Section 2: Intent and Purpose

This by-law is enacted for the purpose of preserving and protecting both Public Shade Trees pursuant to Massachusetts General Law Chapter 87 and certain designated trees on private property. It is desirable to plant more public shade trees than are removed to compensate for tree losses and the length of time to maturity.

Section 3: Definitions

When used in this bylaw, the following definitions shall apply:

3.1 **DEMOLITION**: An act of pulling down, destroying, removing, or razing a building or commencing the work of total or substantial destruction with the intent of completing the same.

3.2 **CALIPER**: Diameter of a tree trunk (in inches) measured 6 inches above the ground for tree up to and including 4-inch diameter, and 12 inches above the ground for larger trees.

3.3 **DBH (Diameter at Breast Height)**: The diameter (in inches) of the trunk of a tree (or, for multiple trunk trees, the aggregate diameters of the multiple trunks) measured 4 ½ feet from the existing grade at the base of the tree.

3.4 **PERSON**: Any person, firm, partnership, association, corporation, company or organization of any kind including public utility and municipal department.

3.5 **PROTECTED TREE**: Any tree that is greater than eight (8) inches in diameter measured at 4 ½ feet off the ground

3.6 **PUBLIC SHADE TREE**: Any tree within the public-right-of-way except for state highways that, as determined by the Tree Warden, has any portion of the stem between 6 inches and 4 ½ feet above grade actively growing into the public right-of-way trees on other public land

3.7 **TREE REMOVAL**: Any act that will cause a tree to die within three (3) years.

3.8 **STRUCTURE**: A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purpose of this definition "roof" shall include an awning or any similar covering, whether or not permanent in nature. The word "building" shall be construed as where the context allows as though followed by the words "or part or parts thereof"

Section 4: Applicability of the Bylaw

4.1 Applicability: The circumstances under which the tree removal and replacement regulatory process delineated in this bylaw shall apply are as follows:

- (a) the proposed demolition of an existing residential structure and its replacement with a new dwelling or structure
- (b) the proposed construction of an addition to the existing residential structure that constitutes a 10% or greater increase in the building footprint
- (c) the proposed demolition of an existing non-residential structure and its replacement with a new dwelling/structure
- (d) the proposed construction of an addition to the existing non-residential structure that constitutes a 10% or greater increase in the building footprint
- (e) the proposed removal and replacement of existing public shade trees by the town or their agents or contractors
- (f) Section 7.2 or special permit process

Section 5: Tree Warden

The duties or responsibilities of the Tree Warden shall conform to the General Law Chapter 87 and shall include, but not be limited to the following: management of all trees within public rights-of-way and adjacent to public buildings and commons; care and control of trees on Town property if so requested by the Commissioner of Public Works or the Director of Parks and Open Space

- (a) expending funds, in coordination with the Tree Planting Committee, appropriated for planting trees on Town land under the jurisdiction of the Tree Warden;
- (b) enforcement of this bylaw
- (c) work with the Administrator of Conservation or his or her designee to review proposed tree removals as regulated by this bylaw

Moreover, the Commissioner of Public Works or the Director of Parks and Open Space may authorize the Tree Warden to undertake other responsibilities consistent with the intent of this bylaw.

Section 6: Regulation of Public Shade Trees

6.1 Scope

A Public Shade Tree may not be cut, pruned, removed or damaged by any person other than the Tree Warden or his or her designee until and unless the Tree Warden issues a written permit pursuant to this section.

6.2 Procedures

Any person seeking to remove a Public Shade Tree shall submit an application to the Tree Planting Committee in accordance with any application requirements issued by the Tree Warden. The Tree Planting Committee shall hold a public hearing on applications for removal, at the expense of the applicant, in accordance with the provisions outlined within General Law Chapter 87. The permit issued by the Tree Planting Committee may specify schedules, terms, and conditions, including requiring the planting of replacement trees.

6.3 Planting of Trees on Public Land

Any person seeking to plant a Public Shade Tree on Town land under the jurisdiction of the Tree Warden must obtain written permission from the Tree Warden. Such permission may specify schedules, terms, and conditions as deemed appropriate by the Tree Warden.

Section 7: Regulation of Protected Trees

7.1 Scope

The removal of Protected Trees is prohibited unless authorized by the Tree Warden or Tree Planting Committee as set forth below

7.2 Procedures

In connection with Major Construction or Demolition, the owner of the property shall submit a proposal for tree removal and mitigation to the Administrator of Conservation with the application for a demolition or building permit. As part of the permit process, the property owner shall submit to the Administrator of Conservation a site plan drawn and stamped by a registered land surveyor or landscape architect showing all existing trees 8" DBH or greater. What about undesirable species?

The Administrator of Conservation shall refer the tree proposal to the Tree Warden. The Tree Warden shall conduct a site visit. If the applicant's proposal is consistent with the mitigation requirements herein, the Tree Warden will issue a permit within twenty (20) business days of receipt to authorize the tree work. If the proposal does not meet or satisfy these requirements, the Tree Warden shall so notify the applicant and deny the permit. Is this also within 20 days

An applicant may appeal the denial or grant of a tree permit to the Tree Planting Committee. The Tree Planting Committee shall conduct a public hearing on the appeal and shall give the public notice thereof, at the expense of the applicant. Public notice shall include all persons owning land within 300 feet of any part of applicant's land at least fourteen (14) days before said hearing. The Tree Planting Committee shall rule within twenty (20) business days of the public hearing.

Appeals of final decision of the Tree Planting Committee shall be to the Board of Selectmen.

7.3 Mitigation

A Protected Tree shall not be removed unless at least one of the following provisions is satisfied:

- (a) Replanting of Trees: such replanting shall be on the basis on ½ inch of caliper of new tree(s) for each inch of DBH of tree(s) removed, and each replanted tree must have a minimum caliper of three (3) inches. ?? The replanting shall occur no later than 12 months after completion of the construction work, either on applicant's land or on land abutting applicant's land with express approval of the owner of such abutting land; or other site as approved by the Tree Warden.
- (b) Contribution into the Tree Replacement Fund: such contribution shall be \$50 per DBH inch of Protected Tree removed not already mitigated as per section 7.3 (a); or
- (c) The applicant demonstrates that the removal of a Protected Tree does not adversely impact the interests identified in Section 1 of this bylaw.

7.4 Tree Replacement Fund

The Director of Parks and Open Space with input from the Tree Warden, shall have sole discretion concerning the use of funds from the Tree Replacement Fund which shall be disbursed by the Tree Warden for planting (and maintenance, as necessary) of tree on public land or private property with express approval of the owner of such private property.

Section 8: Emergencies and Exemptions

Provisions in the bylaw shall not apply to:

- (a) emergency projects necessary for public safety, health, and welfare as determined by the Commissioner of Public Works or the Director of Parks and Open Space; and

- (b) trees that are hazardous (threat to life and/or property) as determined in writing by the Tree Warden and/or the Town Arborist; and
- (c) trees identified by the Commonwealth that pose a risk due to insect/disease infestation

Section 9: Enforcement/ Penalties

9.1 Enforcement

Any person violating this bylaw is subject to the penalties under Article __, Section __ as amended in this warrant article; General Law Chapter 87 (for violating Section 6 of this bylaw); and other legal enforcement action by the Town. The Tree Warden is authorized to enforce the provisions of Article I of the General Bylaws and the provisions of General Law Chapter 87. Any other legal enforcement action shall be determined by the Board of Selectmen in consultation with the Tree Planting Committee, the Tree Warden, and Town Council.

9.2 Penalties

Any person who removes or trims a public shade tree without a permit or hearing as required by law shall be subject to cumulative fines as follows:

- up to \$500 as provided by Massachusetts General Laws Chapter 87, Section 6
- triple damages as set forth in Massachusetts General Laws Chapter 242, Section 7

Each instance in which a Protected Tree is removed without a Tree Permit shall constitute a violation of this bylaw and shall be subject to a fine of up to \$300.

A violation of the provisions of this bylaw shall result in the revocation of a building permit.

Section 10: Rules and Regulations

The Selectmen may promulgate, after public notice and hearing, Rules and Regulations to effectuate the purposes and intent of this bylaw. Failure by the Selectmen to promulgate such Rules and Regulations shall not act to suspend or invalidate the effect of this bylaw.

Section 11: Severability

If any section, paragraph, or part of this bylaw is for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force.

Section 12: Relationship to Other Bylaws

Nothing in this bylaw shall be construed to restrict, amend, repeal, or otherwise limit the application or enforcement of existing Town of East Longmeadow bylaws or Commonwealth of Massachusetts Bylaws.